



## State of Utah

### Department of Natural Resources

MICHAEL R. STYLER  
*Executive Director*

### Division of Oil, Gas & Mining

JOHN R. BAZA  
*Division Director*

JON M. HUNTSMAN, JR.  
*Governor*

GARY R. HERBERT  
*Lieutenant Governor*

February 7, 2006

### CERTIFIED RETURN RECEIPT 7099 3400 0016 8894 6468

Barry Peterson  
Gold Star Stone  
160 East Cottonwood  
Box 62  
Oakley, Idaho 83346

Subject: Reassessment for State Cessation Order No. MC-05-01-17(1), Gold Star Stone/Barry Peterson, Lone Pine Quarry, M/003/050, Box Elder County, Utah

Dear Mr. Peterson:

The proposed civil penalty assessment for the above referenced cessation order was sent to you on December 6, 2005. At that time the abatement had not been completed and some of the facts surrounding the violation were not available. In accordance with rule R647-7-105, the penalty is to be reassessed when it is necessary to consider facts, which were not reasonably available on the date of the issuance of the proposed assessment. Now that the Cessation Order has been terminated the assessment can be completed. Following is the reassessment of the penalty for the cessation order:

- MC-05-01-17 Violation 1 of 1      \$1,210

The enclosed worksheet specifically outlines how the violation was assessed. You should note that good faith points have now been awarded.

Under R647-7-106, there are two informal appeal options available to you:

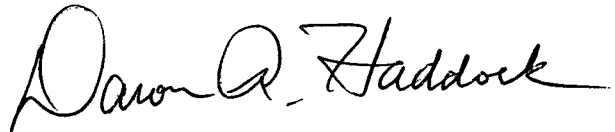
1. If you wish to informally appeal the fact of the Cessation Order, you should file a written request for an Informal Conference within thirty (30) days of receipt of this letter. This conference will be conducted by the Division Director or Associate Director. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.

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Barry Peterson  
M/003/050  
February 7, 2006

2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within thirty (30) days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph one, the assessment conference will be scheduled immediately following that review.

**If a timely request for review is not made, the fact of the cessation order will stand, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the reassessment.** Please remit payment to the Division, mail c/o Vickie Southwick.

Sincerely,



Daron R. Haddock  
Assessment Officer

DRH:vs  
Enclosure: worksheet  
cc: Vicki Bailey, Accounting  
Vickie Southwick, Exec. Sec.  
P:\GROUPS\MINERALS\WP\M003-BOXELDER\M0030050-LONEPINE\NON-  
COMPLIANCE\REASSESSMC-05-01-17.DOC



A. EVENT VIOLATION (Max 45 pts.)

1. What is the event, which the violated standard was designed to prevent?
2. What is the probability of the occurrence of the event, which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS:

\*\*\* *The operator has been conducting mining operations outside the area that was permitted. A new road was constructed and the disturbed area expanded without first having a permit modification approved. While the Operator had submitted an amendment to add additional acreage, this area of expansion was not included as part of the amendment. Disturbance has actually occurred.*

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 8

PROVIDE AN EXPLANATION OF POINTS:

\*\*\* *The inspector stated that an additional 2.75 acres of land outside of the approved mining area has been disturbed. Mining is being conducted in accordance with the existing notice of intent, but not in an area where they are authorized to mine. Disturbance is typical of mining activities with soil and vegetation being impacted. Further discussion with the inspector revealed that the damage is probably temporary. While much of the soil and vegetation have been disturbed, the site could still be reclaimed. While the damage is extensive over the 2.75 acres, it probably does not leave the site. Damage is assessed in the lower 1/3 of the range.*

B. ADMINISTRATIVE VIOLATIONS (Max 25pts)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? \_\_\_\_\_ RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS \_\_\_\_\_

**PROVIDE AN EXPLANATION OF POINTS:**

\*\*\*

TOTAL SERIOUSNESS POINTS (A or B) 28

**III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)**

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, the failure to abate any violation due to the same or was economic gain realized by the permittee? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Negligence

ASSIGN NEGLIGENCE POINTS 8

**PROVIDE AN EXPLANATION OF POINTS:**

\*\*\* *The inspector indicated that the operator thought that since he had submitted an amendment for a 2- acre additional area, it would be okay if he didn't operate exactly where the amended area was located. He thought this new area was a better location to begin mining rather than the area indicated in the amendment. This indicates an indifference to DOGM regulations or lack of reasonable care. A prudent operator would understand the need to secure approval prior to disturbing an area and keeping any disturbance within the site approved in the Notice of Intent. Even though he had applied for an amendment, the Operator was negligent in getting an approved NOI, for two reasons: 1) the area included in the amendment did not include the area disturbed, 2) the amendment had not been finally approved and he shouldn't have been operating in a new area anyway. The indifference to DOGM regulation indicates ordinary negligence, thus the assignment of points in the middle part of the negligence range.*

**IV. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)**

(Either A or B) (Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?

IF SO--EASY ABATEMENT

Easy Abatement Situation

- Immediate Compliance -11 to -20\*  
(Immediately following the issuance of the NOV)
- Rapid Compliance -1 to -10  
(Permittee used diligence to abate the violation)
- Normal Compliance 0  
(Operator complied within the abatement period required)  
(Operator complied with condition and/or terms of approved Mining and Reclamation Plan)

\*Assign in upper of lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

- Rapid Compliance -11 to -20\*  
(Permittee used diligence to abate the violation)
- Normal Compliance -1 to -10\*  
(Operator complied within the abatement period required)
- Extended Compliance 0  
(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete)  
(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? difficult (requires the submission of plans)

ASSIGN GOOD FAITH POINTS -10

**PROVIDE AN EXPLANATION OF POINTS:**

**\*\*\* Since plans were required for abating this violation, the abatement is considered to be difficult. The operator was required to provide an amendment to the Notice of Intent, which would show the added disturbance and also provide an updated reclamation surety. The amendment was to be submitted within 30 days. The Operator asked for an additional 10 days and actually submitted the amendment on December 19, 2005, which was within the extended deadline. The reclamation bond was required to be submitted by December 31, 2005. The Division was notified via telephone on January 3, 2006 that the money for the increased surety had been deposited with**



*the bank as required. The Division did not terminate the Cessation Order until receiving confirmation of the deposit on January 24, 2006. Since the money had been deposited as required, the Cessation Order was terminated effective December 30, 2005. The Operator did comply with a difficult abatement within the required abatement dates. Thus assignment of good faith points in the upper part of the normal compliance range.*

V. **ASSESSMENT SUMMARY (R647-7-103.3)**

NOTICE OF VIOLATION # <b><u>MC-05-01-17(1)</u></b>	
I. TOTAL HISTORY POINTS	<u>5</u>
II. TOTAL SERIOUSNESS POINTS	<u>28</u>
III. TOTAL NEGLIGENCE POINTS	<u>8</u>
IV. TOTAL GOOD FAITH POINTS	<u>-10</u>
TOTAL ASSESSED POINTS	<u>31</u>
TOTAL ASSESSED FINE	<b><u>\$ 1,210</u></b>